

State of Missouri

Regulatory Impact Report for Proposed Rule Amendment 10 CSR 20-7.015 Effluent Regulations



Missouri Department of Natural Resources

Water Protection and Soil Conservation Division

Water Protection Program

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Basic Rule Information

Program/Division: Water Protection Program, Division of Water Protection and Soil Conservation

Rule Number: 10 CSR 20-7.015 **Rule Title:** Effluent Regulations

Type of rule: Proposed Amendment Revision

Submitted by: Clean Water Commission

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Introduction

This Regulatory Impact Report was written to comply with Chapter 640.015 RSMo and is a means to provide to the public and interested parties the information on rule development within the Department of Natural Resources. It is a summary of the information, discussion, input, and rationale used by the department in development of a draft rule. The goal of this Report is to ensure accountability, consistency, and transparency in the rulemaking process. Distribution of the Report will make this information readily available to a wide audience in a timely manner.

The department is proposing revisions to the Effluent Regulations to clarify existing language, update names and titles referenced by the rule, reflect changes being proposed in the water quality standards at 10 CSR 20-7.031 and to establish schedules or effective dates for achieving compliance with the proposed water quality standards. Following is a summary of these proposed revisions:

The Department of Natural Resources is amending the following:

- (1)(A)3 and (7)(C) to reflect the name change from the Division of Geology and Land Survey to the Geological Survey and Resource Assessment Division,
- (2)(B)4, (3)(B)3 and (8)(B)4 to add language referencing the implementation schedule for facilities that must install disinfection,
- (3)(F)1 to clarify the effective date of phosphorus rule for Lake Taneycomo,
- (3)(G)2, 3 and 4 to clarify the effective date of phosphorus rule for Table Rock Lake,
- (4)(B)5 to revise confusing language regarding requirements for dechlorination,
- (6) to make this rule more consistent with the changes proposed to the water quality standards for certain pollutant levels in waters of the state,
- (6)(A) and (B) to reflect the proposed changes to the implementation of the Tier III antidegradation rule, and
- (9)(H) to add language explaining the implementation schedule for facilities to comply with new water quality standards proposed to protect whole body contact recreation .

Because this proposed rule does not establish new water quality standards, its impact is confined to the effect from the timeframes that it imposes on compliance. These timelines were not developed from scientific data and, therefore, certain portions of this report are not directly applicable to this rulemaking. Reference is occasionally made to the Regulatory Impact Report for the proposed rule on water quality standards in order to identify the relationship between the two (10 CSR 20-7.015 and 10 CSR 20-7.031).

Regulatory Impact Report

1. Does the rulemaking adopt rules from the US Environmental Protection Agency or rules from other applicable federal agencies without variance?

No. Federal rules do not contain standards that correspond exactly to this proposed rulemaking. Instead, EPA has developed guidance for states to use in developing rules effecting administrative issues. In the absence of specific federal performance standards on the above mentioned items, this rulemaking proposes to establish revised effluent standards that are functionally equivalent to the federal Clean Water Act and that are consistent with EPA guidance.

2. Report on peer-reviewed scientific data used to commence the rulemaking process.

The revisions proposed are administrative and do not involve science. As mentioned in the introduction section of this document, the changes involve schedules, effective dates, clarifications and changes needed to make the effluent regulations consistent with the revisions being proposed in the state's water quality standards. Therefore, a peer review of scientific data was determined to be unnecessary and was not conducted specifically for this rule.

3. Description of persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule.

The entities most likely to be affected by the proposed rule are those subject to the proposed schedule for protecting waters being newly designated for whole body contact recreation. This proposed schedule might affect up to 911 facilities. The actual number of affected facilities depends on how many will need to upgrade to comply with new water quality standards. Those that do not need to upgrade may still need to perform evaluations of their discharges to confirm compliance with the new water quality standards. The department was not able to determine or make a reasonable estimate of the number of facilities either needing to upgrade or to perform a water quality evaluation.

Benefits of this proposed rule include better clarity on administrative matters such as effective dates and schedules for compliance on certain portions of the rule, as well as clearer language on where disinfection of discharges is required. These clarifications will improve the understanding of the effluent regulations and will facilitate decision-making relevant to the regulations.

4. Description of the environmental and economic costs and benefits of the proposed rule.

Environmental Benefits: This proposed rule is being drafted in conjunction with changes to the state's water quality standards at 10 CSR 20-7.031. Consequently, most of the environmental benefits will be realized through the changes proposed in the other rule. The proposed changes in the effluent rule are administrative. Therefore, the environmental benefit of this proposed rule will be an improvement in the understanding of the rule and the enhanced progress toward greater environmental protection as result of the new schedules and effective dates.

Environmental Costs: No significant short-term or long-term negative impacts to the environment will occur from this proposed rule. The proposed schedules are intended to create a systematic approach to achieving compliance with the new water quality standards that, overall, will increase the level of protection to waters of the state. Additionally, instead of applying the new standards immediately to all facilities, the schedules consider the capabilities of the department to perform the necessary review for compliance and to process the permit modifications that result from the new water quality standards. Therefore, some facilities will not be required to comply with the new standards immediately. In some cases, facilities may have up to eight years to comply.

Economic Benefits: Some operational efficiencies may result from the clarifications presented by this proposed rule and, as stated above, the proposed rule does lessen the standards in a few instances where new science has shown that less stringent standards are sufficiently protective. However, it is unlikely that these minor changes in standards will result in modifications to existing treatment systems.

Economic Costs: This proposed amendment is being written in conjunction with proposed changes to 10 CSR 20-7.031, Water Quality Standards. Because these rules would be administered jointly, the department has determined potential costs as an aggregate for both rulemakings. The rulemakings together will cost private and public entities (permitted facilities) an estimated three hundred four million, eight hundred sixty-six thousand dollars (\$304,866,000) in the aggregate. The cost and figures are included in the documentation for both rules, though the cost will only be incurred once. Since the Effluent Regulations are tied so closely to the Water Quality Standards, the cost cannot be distinguished as part of one rule or the other. Therefore, the basis for the cost estimation and assumptions are also described in the Regulatory Impact Report for the Water Quality Standards and the fiscal notes for both proposed rules. The reader is referred to the Regulatory Impact Report for the Water Quality Standards for the basis for the cost estimation and assumptions.

5. Probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue.

The impact on state revenue is the same for both this proposed amendment and the proposed amendment to 10 CSR 20-7.031, Water Quality Standards. The cost and figures are included in the documentation for both rules, although the cost will only be incurred once (see explanation in Section 4 of the Regulatory Impact Report for the Water Quality Standards).

6. Comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits.

Without schedules or effective dates in the effluent rule, the proposed revisions to the water quality standards would be enforceable upon the effective date of the proposed changes in 10 CSR 20-7.031. The costs to the effected regulated entities may be greater where immediate compliance is required. Immediate compliance would limit the opportunity for the regulated entities to find the most cost-effective approach to achieving compliance.

Although immediate action to upgrade treatment would be required if no schedules for compliance were developed, the environmental benefits would likely be short-lived. The short-lived benefits do not outweigh the additional cost such an approach would impose on the regulated entities.

One of this state's greatest natural resources is its abundant water. The WQS are designed to protect that resource. If this rulemaking does not become effective, some of those resources will not be protected to the extent required by federal law. In addition, public health might be affected due to the need for revised water quality criteria for adequate protection of aquatic life (fish consumption), recreational uses, and drinking water supplies. Many of these impacts are immeasurable in terms of costs simply because the exact effects from lack of action is incalculable. What is the price of good health? While the potential economic cost explained in Section 4 of this report is certainly significant, no comparison can be made to environmental benefits without associating a cost to lowered health of citizens and the diminished resources that this rulemaking is intended to prevent.

The state of the economy depends to some extent on the state of the environment. For example, an area that can advertise good water quality is attractive to many human activities, from tourism to industry. The faster these standards are achieved, the sooner these benefits are realized.

7. Determination of whether there are less costly or less intrusive methods for achieving the proposed rule.

The schedules and effective dates, proposed in this rule, should provide adequate time for the regulated entities to achieve compliance. The proposed rule contains a schedule for compliance that considers the need for both the department and the regulated entities to allot time to organizing their resources to address the new requirements. Less aggressive schedules would unnecessarily delay implementation of the new standards proposed in 10 CSR 20-7.031 Water Quality Standards.

8. Description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the department and the reasons why they were rejected in favor of the proposed rule.

For most of the proposed rules, EPA requires a regulatory program to ensure the effective administration of clean water standards. No other state agency has the authority or funding source to administer such a program. EPA has delegated its authority only to the department for administering a water quality program and that delegation hinges on the program being functionally equivalent to the federal Clean Water Act.

The proposed schedules and effective dates were developed in conjunction with EPA. They represent the most appropriate balance between the need to promptly achieve functional equivalence with federal standards and the need to consider the present social-economic conditions in effected communities as well as the technological capabilities of the regulated entities.

9. Analysis of both short-term and long-term consequences of the proposed rule.

This proposed rule would require certain regulated entities to upgrade their systems in accordance with a schedule or an effective compliance date. Consequently, the regulated entities affected by this rule must review their wastewater systems to determine any needed upgrades and to achieve those upgrades within a specified time. Those facilities that must upgrade their treatment processes must design those upgrades and prepare and submit applications for construction permits and revised operating permits.

Improvements in water quality should result once these upgrades are completed, permits are issued and the new treatment systems are in operation.

10. Explanation of the risks to human health, public welfare or the environment addressed by the proposed rule.

This proposed rule only addresses the need for clarifying existing rules and for establishing schedules for achieving compliance with the new standards proposed in another rule (water quality standards). This rule does not create any risks except for that which might be imposed because of deadlines. It is conceivable that some environmental or public health threat might arise before the proposed schedules go into effect. However, this is considered an existing risk and unavoidable until the regulated entities have an appropriate amount of time to achieve compliance.

11. Identification of the sources of scientific information used in evaluating the risk and a summary of such information.

This proposed rule only addresses the need for clarifying existing rules and for establishing schedules for achieving compliance with the new standards proposed in another rule. Therefore, scientific information was not used in developing this proposed rule.

12. Description and impact statement of any uncertainties and assumptions made in conducting the analysis on the resulting risk estimate.

As stated in the response to Item #11, the purpose of this rulemaking is to reduce or eliminate the existing risks from water pollution. No new risks are imposed.

13. Description of any significant countervailing risks that may be caused by the proposed rule.

None. See responses to Items 11 and 12.

14. Identification of alternative regulatory approaches that will produce comparable human health, public welfare or environmental outcomes.

A number of alternate compliance schedules were discussed during the development of this proposed rule. The schedules proposed are believed to represent the most reasonable balance between the need for environmental and health protection and the need for time to upgrade water treatment.

15. Information on how to provide comments on the Regulatory Impact Report during the 60-day period before the rule is provided to the Secretary of State.

The department will post a notice in the Jefferson City News Tribune that the Regulatory Impact Report will be available for public comment for a period of 60 days. The same notice will be posted on the department's web page at www.dnr.mo.gov/wpscd/wpcp/index.html. Persons wanting to comment on the RIR may submit them in writing to Ms. Marlene Kirchner, Commission Secretary, Missouri Clean Water Commission, Water Protection Program at P.O. Box 176, Jefferson City, Missouri 65102. Comments may also be faxed to (573) 526-1146. The deadline for submitting comments will be clearly explained in the newspaper advertisement and in the web page announcement.

16. Information on how to request a copy of comments or the web information about where the comments will be located.

Requests for copies of the comments received on this RIR may be sent to Ms. Marlene Kirchner, Commission Secretary, Missouri Clean Water Commission, Water Protection Program at P.O. Box 176, Jefferson City, Missouri 65102, or faxed to (573) 526-1146. Following the end of the comment period, comments on the report will be posted on the department's web page at www.dnr.mo.gov/wpscd/wpcp/index.html.